

Appl. No. 10/020,922
Art Unit 1772
September 1, 2004
Reply to Office Action of June 17, 2004

REMARKS

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing amendments to the claims.

In the present reply, claim 1 has been amended. No new matter has been added by way of the amendment to claim 1 (for example, see the present specification at page 5, lines 3-12). Claims 4-8 and 10-20 were previously canceled without prejudice or disclaimer of the subject matter contained therein. Claim 9 is canceled herein without prejudice or disclaimer of the subject matter contained therein. Thus, claims 1, 2 and 3 are pending in the present application.

Based upon the above considerations, entry of the present amendment is respectfully requested.

Paragraphs 1-17 discuss various rejections that have been withdrawn. With regard to the remaining parts of the Office Action, and in view of the following remarks, Applicants respectfully request that the Examiner withdraw all remaining rejections and the objection and allow the currently pending claims.

Objections to Claims

Claims 3 and 9 stand rejected under 37 C.F.R. §1.75(c) for asserted improper dependency (as stated in paragraph 18, page 4 of the outstanding Office Action). Applicants respectfully traverse.

Appl. No. 10/020,922

Art Unit 1772

September 1, 2004

Reply to Office Action of June 17, 2004

First, the objection to claim 9 is rendered moot because of its cancellation.

Second, Applicants respectfully refer the Examiner to claim 1 as presented, wherein no such set (i.e., (B) alone or both (B) and (C)) as asserted by the Examiner exists.

Third, Applicants respectfully disagree with the Examiner's reasoning. Basically, if claim 1 recites a composition of either (A)+(B), or (A)+(B)+(C), it is proper to have a dependent claim (i.e., claim 9) directed to just (A)+(B) or the other embodiment. Thus, Applicants traverse the objection to claim 3 based on the reasoning above and request clarification of this objection if maintained (contact information for Applicants' representative is given below). Claim 3 is directed to "the molecular weight distribution (Mw/Mn) determined by GPC of the linear low-density polyethylene (C), is in the range of 1.5 to 5."

Based on the above, withdrawal of this objection is respectfully requested.

Issues Under 35 U.S.C. § 112, Second Paragraph

Claims 1, 3 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, for an asserted reason of indefiniteness. Applicants respectfully traverse.

First, Applicants respectfully refer the Examiner to the scope of claim 1 as presented. Applicants believe this rejection of claim 1 is rendered moot.

Second, with regard to claim 3, Applicants disagree with the Examiner's reasoning. Instantly pending claim 3 is directed to "the molecular weight distribution (Mw/Mn) determined by GPC of the linear low-density polyethylene (C), is in the range of 1.5 to 5." There is no indefiniteness issue as asserted. If the Examiner wishes to maintain this rejection, Applicants respectfully request the Examiner to contact Applicants' representative.

Third, the rejection of claim 9 is rendered moot with its cancellation.

Thus, Applicants respectfully submit that the pending claims fully comply with the provisions of 35 U.S.C. § 112, second paragraph. Reconsideration and withdrawal of this rejection are respectfully requested.

Issues Under 35 U.S.C. §§ 102(b) and 103(a)

Claim 1 stands rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Yamamoto et al. '861 (U.S. Patent No. 5,741,861) (see paragraph 20 of the Office Action). Also, claim 2 stands rejected under 35 U.S.C. § 103(a) in view of Yamamoto '861 and Tsutsui et al. '689 (newly cited; U.S. Patent No. 5,525,689) (see paragraph 21 of the Office

Action). Applicants respectfully traverse both of these rejections, and reconsideration and withdrawal of these rejections are respectfully requested.

First, Applicants respectfully refer the Examiner to the scope of claim 1 as presented. Paragraphs 20 and 21 make no mention of, nor do the cited references disclose or teach, the claimed ingredient (C). In other words, the cited Yamamoto '861 and Tsutsui '689 references fail to disclose, or render as obvious, all instantly claimed features of the present invention.

Thus, because "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," the cited Yamamoto '861 reference cannot be a basis for a rejection under § 102(b). See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Thus, because of the lack of disclosure of all features as instantly claimed, the rejection in view of Yamamoto '861 is overcome.

Also, a proper obviousness inquiry requires consideration of three factors, wherein one such factor is that the prior art reference (or references when combined) must teach or suggest all the claim limitations. See *In re Vaeck*, 947 F.2d, 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). This requirement for a *prima facie* case of obviousness has not been satisfied, since none of the cited references disclose

Appl. No. 10/020,922

Art Unit 1772

September 1, 2004

Reply to Office Action of June 17, 2004

Applicants' invention comprising all components (A), (B) and (C). Thus, a *prima facie* case of obviousness has not been established.

Accordingly, Applicants respectfully submit that all of these rejections have been overcome. Reconsideration and withdrawal of these rejections are respectfully requested.

Request for Interview

Applicants herein request an Interview with the Examiner in efforts to advance prosecution of this application. Applicants' representative will contact the Examiner in the near future.

Conclusion

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Appl. No. 10/020,922

Art Unit 1772

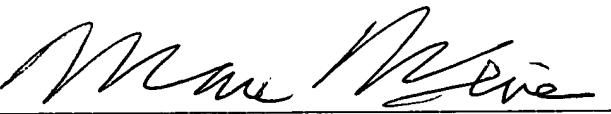
September 1, 2004

Reply to Office Action of June 17, 2004

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Marc S. Weiner, #32,181

MSW/ETP/las
1155-0236P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

(Rev. 02/12/2004)